

REMARKS

Claims 1-33 are pending and are subject to restriction. Specifically, in the Office Action mailed April 11, 2003, the Examiner requested a restriction between claims 1-3, 7 and 21 (Group I), claims 4-6 (Group II), claims 8-20 (Group III) and claims 22-33 (Group IV) prior to examination. The Examiner stated that the inventions disclosed in each of Groups I through IV are distinct.

Applicant provisionally elects to prosecute claims directed to Group 1 (claims 1-3, 7 and 21) with traverse. Applicant also respectfully requests reconsideration of the restriction requirement.

The Manual of Patent Examining Procedure ("MPEP") explains the requirements for a proper restriction requirement. In particular, the MPEP states:

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP Section 802.01, Section 806.04, Section 808.01) or distinct as claimed (see MPEP Section 806.05 - Section 806.05(i)); *and*

(B) There must be a serious burden on the examiner if restriction is required (see MPEP Section 803.02, Section 806.04(a) - Section 806.04(i), Section 808.01(a), and Section 808.02).

M.P.E.P. § 803 (emphasis added).

The fact that *both* criteria must be satisfied is made clear by the following statement in the MPEP: "If the search and examination of an entire application can be made without serious burden, the examiner *must* examine it on the merits, even though it includes claims to independent or distinct inventions." MPEP § 803 (emphasis added)).

Thus, if the subject matter of the pending claims is such that there would be no serious burden on the Examiner to search and examine all of the pending claims at the same time, the Examiner is to do so, *even if* the pending claims are drawn to independent or distinct inventions.

Applicant respectfully submits that the examination of Groups I, II, III and IV would not place an undue burden on the Examiner. Applicant notes that the inventions claimed in each of said groups, though independently patentable, are closely related such that a prior art search directed to one group could reveal art directed to both groups of claims. Thus, it is respectfully submitted that the Examination of Groups I through IV would not pose an undue burden on the Examiner.

For at least these reasons Applicant respectfully requests reconsideration and withdrawal of the restriction requirement.

#### CONCLUSION

If any point remains that is deemed best resolved through a telephonic interview, the Examiner is respectfully invited to contact the undersigned attorney.

Respectfully submitted,

Date: May 1, 2003

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